

June 1997

STUDY OF LONG-TERM CARE FINANCING

House Concurrent Resolution No. 3006 (1997) provides for a Legislative Council study of long-term care financing issues to determine changes necessary to develop alternative services and the feasibility of a managed care system for long-term care services. The resolution also provides that the study is to include a review of:

1. Nursing facility and other residential care systems to determine the changes necessary to assist in the development of alternative services;
2. Financial incentives necessary to encourage nursing facilities to reduce the number of beds and to develop alternative services;
3. The possibility of some categories of long-term care residents being able to receive services in alternative, less costly settings and any related cost savings; and
4. The feasibility of a managed care system for long-term care services.

The resolution cites as reasons for the study:

1. The current long-term care payment system's need for review to determine if some categories of nursing home residents could receive services in alternative, less costly settings.
2. The long-range goal of reducing the number of long-term care beds in North Dakota and of providing incentives to deliver alternative home and community-based services.
3. The possibility of a managed care program for long-term care services resulting in the development of alternative care in a cost-efficient manner.
4. To review any financial, regulatory, or other impediments that may exist that prevent the development of alternative services to long-term care.

Attached as an appendix is a copy of House Concurrent Resolution No. 3006.

PRIOR STUDIES

1995-96 Interim Budget Committee on Home and Community Care

The 1995-96 interim Budget Committee on Home and Community Care studied the use of the state's resources and services in addressing the needs of the elderly residents. As a part of the study, the committee received the report of the Task Force

on Long-Term Care Planning which contained numerous recommendations relating to the financing of long-term care in North Dakota. The Budget Committee on Home and Community Care recommended the following bills and resolutions:

1. House Bill No. 1037, which failed, would have made permanent the moratorium on basic and long-term care bed capacity and required the Department of Human Services to establish pilot projects to meet the service needs of the Alzheimer's and related dementia population. The provisions of House Bill No. 1037 were included in House Bill No. 1012.
2. House Bill No. 1038, which failed, would have defined case management and required the Department of Human Services to establish a project designed to provide an expanded case management system for individuals in need of long-term care services. The provisions of House Bill No. 1038 relating to the expanded case management pilot project were included in House Bill No. 1012.
3. House Concurrent Resolution No. 3003, which passed, directed the Legislative Council to monitor the implementation of the projects developed by the Department of Human Services relating to the conversion of long-term care capacity for use by Alzheimer's and related dementia persons and the testing of an expanded case management system for elderly and disabled persons.
4. House Concurrent Resolution No. 3004, which passed, directed the Legislative Council to study expanded home and community-based provider availability, availability of geropsychiatric care, and the feasibility of combining service reimbursement payment sources for elderly and disabled services.
5. House Concurrent Resolution No. 3005, which passed, directed the Legislative Council to study American Indian long-term care needs and access to appropriate services, including the relationship between state service units and the American Indian reservation service system.
6. House Concurrent Resolution No. 3006, which passed, directed the Legislative Council to study the long-term care financing issues,

including nursing facility and other residential care systems and to determine the financial, regulatory, and other changes necessary to assist in the development of alternative services, the financial incentives to encourage nursing facilities to reduce the number of beds, and the feasibility of a managed care system for long-term care services.

7. House Bill No. 1039, which passed, allows the Department of Human Services to waive the imputed minimum occupancy level requirement for a nursing home that the department determines to be providing significant home and community-based services in order to encourage the development of home and community-based services as an alternative to nursing home care.
8. House Bill No. 1040, which passed, requires the Department of Human Services to provide inflationary increases for nursing home care based on the average of the increase in the DRI nursing home input price index and the increase in the consumer price index for all urban wage earners and clerical workers.

**1991-92 Budget Committee
on Long-Term Care**

The 1991 Legislative Assembly passed Senate Concurrent Resolution No. 4057 which provided for a study of the feasibility and desirability of establishing a state basic care program, including defining the services to be provided and appropriate state, county, and federal financial responsibilities. The study was assigned to the Budget Committee on Long-Term Care. The committee recommended a bill, which failed to pass, which would have provided for a special supplemental grant for home maintenance service for vulnerable aged, blind, or disabled persons. The committee also recommended and the Legislative Assembly passed an expanded service payments for elderly and disabled (SPED) program and a state basic care program.

**1989-90 Budget Committee
on Long-Term Care**

The 1989-90 Budget Committee on Long-Term Care studied the delivery of in-home and community-based services, including exploring alternative methods to make services more affordable, monitoring payments made by the Department of Human Services through the SPED program and long-term care programs, and the impact of providing exemptions to minimum wage and hour standards for individuals providing services. The committee made no formal recommendations.

**TASK FORCE ON LONG-TERM CARE
PLANNING REPORT**

A task force on long-term care planning was formed by the State Health Officer and the executive director of the Department of Human Services. The mission of the task force is to assist the executive and legislative branches of government in the design of a long-term care system responsive to the needs of North Dakota's elderly in a cost-effective manner and to assist in the development of incentives to change the long-term care system into a responsive and cost-effective system.

The report of the task force stated that the system currently in place for the payment of nursing facility services was developed in response to legislation passed by the 1987 Legislative Assembly. The legislation provided for a fundamental change in the way nursing facility services were paid through the use of a case mix system and provided that equal rates applied to both private pay and Medicaid-eligible residents. The report also states that the current payment system encourages facilities to maintain a high occupancy rate in order to preserve the revenue base. The report states that if occupancy drops, revenues drop; thereby, the system provides funding to maintain the status quo with no incentives available to reduce occupancy or the number of beds currently in the system.

The following is a summary of the Task Force on Long-Term Care Planning recommendations regarding long-term care financing:

Long-Term Care Financing	
Long-Range Recommendation	Recommendation to the 1997 Legislative Assembly
<p>Nursing Facility Payment Policy</p> <p>Encourage nursing facilities to reduce the number of beds and provide incentives to deliver alternative home and community-based services through carefully planned changes in the payment system.</p>	<p>Authorize the Department of Human Services to analyze the current payment system, including reviewing current residents who would most likely receive necessary services in alternative settings, and to estimate the cost savings of maintaining these residents in alternate settings as compared to nursing facilities.</p> <p>Require the department to conduct a study of nursing facility and other residential care systems to determine what financial,</p>

Long-Range Recommendation	Recommendation to the 1997 Legislative Assembly
	<p>regulatory, or other impediments exist that prevent the development of alternative services.</p> <p>Direct the department to develop financial incentives to encourage nursing facilities to reduce the number of beds and to develop alternative long-term care services.</p> <p>Encourage the department to develop this concept with the assistance of an advisory committee receiving input from consumers, providers, and government and require the department to present the results of this study to the 1999 Legislative Assembly.</p>
<p>Nursing Facility Bed Capacity Change the current policy that motivates facilities to keep a high occupancy rate in order to maximize reimbursement which is counterproductive to the goal of providing services in the least restrictive, most cost-effective environment.</p>	<p>Provide a permanent moratorium on the construction of additional nursing facility and basic care beds.</p> <p>Establish a "bed bank" for nursing facility beds no longer licensed which would be reallocated to other localities as needed, with the reallocation occurring only if a shortage of nursing facility beds exists after full implementation of home and community-based services.</p>
<p>Managed Care Managed care may play a role in the delivery of long-term care services and could result in the development of alternative care. Because of limited experience and knowledge of the effects of managed care on long-term care services, the issue must be approached cautiously and systematically.</p>	<p>Encourage the Department of Human Services to explore the potential for implementation of a managed care system for long-term care services.</p>
<p>Long-Term Care Insurance Promote the purchase of long-term care insurance to reduce reliance on the Medicaid program for payment of long-term care services.</p>	<p>Provide a tax incentive for the purchase of long-term care insurance available to individuals filing the short tax form; provide a tax incentive to employers who offer long-term care insurance to employees; create a "CHAND-type" product for the sale of long-term care insurance to individuals refused coverage because of preexisting conditions; require insurance companies to pay for home or community-based services provided by a provider that meets recognized standards, without requiring licensure; and encourage insurance companies to offer home and community-based service coverage options when marketing their products to potential policy owners.</p>
<p>Transfer of Assets Allow for the orderly transition of assets without encouraging individuals to impoverish themselves in order to qualify for Medicaid services.</p>	<p>Apply the Uniform Fraudulent Transfer Act to asset transfers to discourage individuals from transferring assets for Medicaid eligibility and set aside a percentage of state funds generated from the savings resulting from the asset transfer law to conduct an educational effort discouraging the use of a transfer of assets to become Medicaid-eligible.</p>
<p>Spousal Impoverishment No action recommended.</p>	<p>Extend the spousal impoverishment provisions, currently available to spouses of nursing home residents, to spouses of individuals receiving home and community-based services and reduce the maximum asset allowance for spousal impoverishment to reduce state costs.</p>

PROGRAM DESCRIPTIONS AND FUNDING LEVELS

Nursing Home Care

Nursing home care services are provided in nursing homes and funded by the federal medical

assistance (Medicaid) program for eligible recipients. The program is funded with federal, state, and county funds. The program funding for the 1995-97 and 1997-99 bienniums is as follows:

		Increase/
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	1995-97	1997-99	(Decrease)
General fund	\$59,684,221	\$62,801,890	\$3,117,669
Other funds	158,129,801	181,777,775	23,647,974
Total	\$217,814,022	\$244,579,665	\$26,765,643

Basic Care

Basic care services are provided in basic care facilities to persons who are Medicaid-eligible and, based on a functional assessment, determined eligible for services. The program funding for the 1995-97 and 1997-99 bienniums is as follows:

	1995-97	1997-99	Increase/ (Decrease)
General fund	\$3,457,249	\$5,681,435	\$2,224,186
Other funds	1,562,481	482,621	(1,079,860)
Total	\$5,019,730	\$6,164,056	\$1,144,326

Medicaid Waiver

Medicaid waiver services are provided in lieu of nursing home placement under a waiver received from the federal government for eligible elderly and disabled persons. Recipients must be Medicaid-eligible and in need of the level of care provided in a nursing home. The program funding for the 1995-97 and 1997-99 bienniums is as follows:

	1995-97	1997-99	Increase/ (Decrease)
General fund	\$1,318,818	\$1,375,652	\$56,834
Other funds	2,924,922	3,213,880	288,958
Total	\$4,243,740	\$4,589,532	\$345,792

SPED Program

Service payments for elderly and disabled services are provided in home and community-based settings to functionally impaired elderly and physically disabled persons to allow persons to avoid institutionalization. Services provided include family home care, homemaker service, home health aid, respite care, case management, nonmedical transportation, chore service, adult foster care, adult day care, and personal care. The state pays 95 percent of the cost of the SPED program and counties pay five percent. The program funding for the 1995-97 and 1997-99 bienniums is as follows:

	1995-97	1997-99	Increase/ (Decrease)
General fund	\$7,131,840	\$8,442,577	\$1,310,737
Other funds	375,360	444,346	68,986
Total	\$7,507,200	\$8,886,923	\$1,379,723

Expanded SPED Program

The expanded SPED program provides basically the same services as the SPED program with different program and financial eligibility criteria. The state pays the entire cost of this program. The program

funding for the 1995-97 and 1997-99 bienniums is as follows:

	1995-97	1997-99	Increase/ (Decrease)
General fund	\$1,423,266	\$1,522,417	\$99,151

Traumatically Brain-Injured (TBI) Waiver

Services are provided in lieu of nursing home placement under a waiver received from the federal government for eligible recipients. Recipients must be Medicaid-eligible and in need of the level of care provided in a nursing home and meet the following criteria:

- Have a diagnosis of traumatic brain injury or acquired brain injury;
- Have a neuropsychological evaluation;
- Be between the ages of 18 and 64;
- Disabled based on Social Security disability criteria; and
- Capable of directing own care as determined by interdisciplinary team.

The program funding for the 1995-97 and 1997-99 bienniums is as follows:

	1995-97	1997-99	Increase/ (Decrease)
General fund	\$542,828	\$456,004	\$(86,824)
Other funds	1,202,998	1,322,352	119,354
Total	\$1,745,826	\$1,778,356	\$32,530

LONG-TERM CARE FINANCING ISSUE STUDY PLAN

The following is a study plan the committee may want to consider in its study of long-term care financing issues:

1. Receive testimony regarding changes necessary to assist in the development of alternative, less costly settings than long-term care facilities.
2. Receive testimony regarding possible financial incentives to encourage nursing facilities to reduce the number of beds and develop alternative services.
3. Receive testimony regarding the possibility of long-term care residents receiving services in alternative, less costly settings and the related cost savings.
4. Review the possibility of implementing a managed care system for long-term care services and the potential fiscal impact.
5. Develop recommendations to be provided to the Legislative Council and to the 1999 Legislative Assembly regarding long-term care financing issues and consider any legislation needed to implement the recommendations.

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE CONCURRENT RESOLUTION NO. 3006
(Legislative Council)
(Budget Committee on Home and Community Care)

A concurrent resolution directing the Legislative Council to study long-term care financing issues to determine the changes necessary to develop alternative services and the feasibility of a managed care system for long-term care services.

WHEREAS, during the 1995-96 interim the Department of Human Services and the Department of Health formed a Task Force on Long-Term Care Planning and presented recommendations to the Legislative Council's Budget Committee on Home and Community Care and the Insurance and Health Care Committee regarding long-term care financing; and

WHEREAS, the Budget Committee on Home and Community Care supports the long-range goals of reducing the number of long-term care beds in North Dakota and of providing incentives to deliver alternative home and community-based services; and

WHEREAS, the current long-term care payment system should be reviewed to determine if some categories of nursing home residents could receive services in alternative, less costly settings; and

WHEREAS, a managed care program for long-term care services could result in the development of alternative care in a cost-efficient manner; and

WHEREAS, financial, regulatory, and other impediments may exist that prevent the development of alternative services to long-term care;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study nursing facility and other residential care systems to determine the changes necessary to assist in the development of alternative services, the financial incentives necessary to encourage nursing facilities to reduce the number of beds and to develop alternative services, if some categories of long-term care residents could receive services in alternative, less costly settings and any related cost savings, and the feasibility of a managed care system for long-term care services; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 3, 1997